IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.404 OF 2001

Damaji P. Patel .. Appellant

vs.

Dharmaji C.Taru & Anr. .. Respondents

Mr.Uday Walunjikar, Advocate for the Appellant.

Mr.S.B.Deshmukh i/b.A.V.Anturkar, Advocate for the Respondent.

CORAM : A.S.OKA, J.

DATED : 16th March, 2005.

P.C. :

1. Seperate affidavit of Appellant No.1 and Respondent No.2 are filed on record. The Appellant No.1 and Respondent No.2 are the Original Plaintiffs. In both the affidavits it is stated that they want to withdraw the original suit with liberty to file necessary proceeding in case any cause of action arises in future. In view of the said affidavits Shri Walunjikar appearing for the Appellant states that the original suit may be allowed to be withdrawn with liberty to file appropriate proceeding including

civil suit in case cause of action arises in future. Shri Deshmukh, appearing for the Respondent No.1 has no objection for adopting the said course.

2. Hence, I pass the following order:

i) Impugned Judgement and decrees are quashed and set aside. Regular Civil Suit No.510 of 1997 is dismissed as withdrawn. The dismissal of the suit will not preclude the appellant and Respondent No.2 from filing appropriate proceeding including a civil suit in case any cause of action arises in future.

ii) Second Appeal is disposed of in above terms with no orders as to cost.

. Parties to act on authenticated copy of this order.

(A.S.Oka,J.)